

JAN 17 1982

TO: John Sansbury, County Administrator
Charles Schoech, County Attorney
Herbert Kahlert, County Engineer
David Bludworth, State Attorney
Robert L. Bogen, Asst. Attorney General
Captain Cook, Sheriff's Dept.
Frank Schulz, Sheriff's Office
Robert Basehart, Planning, Building & Zoning
Bob Brockway, Building Division, Director
Assistant County Attorney - _____
Land Development - Allen Curtis
Traffic Division - Charles Walker
Micki Brown - Finance

DATE: April 21, 1981

FROM: John W. Dame
Chief Deputy Clerk

RE: PALM BEACH COUNTY ORDINANCE NO. 81-4

ORDINANCE CITED AS AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 79-7 KNOWN AS
THE "FAIR SHARE CONTRIBUTION FOR ROAD IMPROVEMENTS ORDINANCE".....

In accordance with the request of the Board of County Commissioners
enclosed is a copy of subject Ordinance.

Signed

Mrs. Lou Clayton

JWD:lc

Enclosure

cc: Commissioner Evatt
Commissioner Bailey
Commissioner Foster
Commissioner Gregory
Commissioner Koehler
John B. Dunkle, Clerk
Minutes Department

ORDINANCE NO. A-81-A

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 79-7 KNOWN AS THE "FAIR SHARE CONTRIBUTION FOR ROAD IMPROVEMENTS ORDINANCE" BY INCLUDING REFERENCE TO THE PALM BEACH COUNTY COMPREHENSIVE LAND USE PLAN; BY AMENDING THE LANGUAGE WHICH SPECIFIES PALM BEACH COUNTY'S AUTHORITY TO ENACT THE FAIR SHARE ORDINANCE; BY AMENDING THE SECTION ALLOWING FOR A REFUND OF THE FAIR SHARE FEE; BY AMENDING THE MAP DEFINING DESIGNATED ZONE SO AS TO MORE SPECIFICALLY AND CLEARLY DEFINE THE ZONES; AND BY AMENDING SEVERAL TECHNICAL PROVISIONS OF THE ORDINANCE SO AS TO IMPROVE THE ORDINANCE'S CLARITY AND ADMINISTRATION; PROVIDING FOR LIBERAL CONSTRUCTION AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND, PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that Ordinance No. 79-7 known as the "Fair Share Contribution for Road Improvement Ordinance" is amended as follows:

SECTION 1. Section 1. Short Title, Authority and Applicability of Ordinance No. 79-7 is amended to read as follows:

SECTION 1. Short Title, Authority and Applicability.

A. This ordinance shall be known and may be cited as the "Fair Share Contribution for Road Improvements Ordinance."

B. The Board of County Commissioners has authority to adopt this ordinance through general non-charter county home rule powers pursuant to Article VIII of the 1968 Florida Constitution, and Chapters 125 and 163 Florida Statutes.

C. Increasing the capacity of arterials and other roads to make them safe and more efficient, in coordination with a plan for the control of traffic, is the recognized responsibility of the County through Section 125.01(m) Florida Statutes, and is in the best interest of the public's health, safety, and welfare.

D. Planning for the necessary expansion of new roads and roadway improvements created by new land development activity generating traffic through the comprehensive planning

process, and the implementation of these plans, is a mandatory responsibility of the County through Section 163.3161 et. seq., Florida Statutes, and is in the best interest of the public's health, safety, and welfare.

-G. E. This ordinance shall apply to the unincorporated area of Palm Beach County, and to the incorporated areas within of Palm Beach County to the extent permitted by Article VIII, Section 1(f) of the 1968 Florida Constitution.

SECTION 2. Section II. Intent and Purpose of Ordinance 79-7 is amended to read as follows:

SECTION II. Intent and Purpose.

A. The Board of County Commissioners has determined and recognized through adoption of the 1980 Palm Beach County Comprehensive Plan that the phenomenal growth rate which the County is experiencing will necessitate extensive road network improvements, costing approximately 2-1/2 billion dollars by the year 2000, exclusive of right-of-way costs, and make it necessary to regulate new land development activity generating traffic in order to maintain a similar level of road service and quality of life in Palm Beach County. In order to finance the necessary new capital improvements and regulate traffic generation levels, several combined methods of financing will be necessary, one of which will require new developments land development activity generating traffic to pay a "Fair Share Fee" which does not exceed a pro rata share of the reasonably anticipated expansion costs of new roads and other facilities.

B. It is the purpose of this ordinance to establish a Countywide system to assist in raising the funds necessary to improve the major road network system, so as to accommodate the increased demand which new development will have on the road system. The new users will only be required to pay the cost of road improvements to the extent that their presence necessitates such improvements.

Providing and regulating arterial and other roads and related facilities to make them more safe and efficient, in coordination with a plan for the control of traffic is the recognized responsibility of the County through Section 125.01(m) Florida Statutes, and is in the best interest of the public's health, safety, and welfare.

C. All-land-development-is-deemed-to-create-a-traffic impact-and-therefore-creates-a-demand-for-increased-road-capacity. As-a-result-of-this-new-building-construction-the-existing major-road-network-system-is-being-seriously-impacted-to-a point-beyond-which-government-can-finance-improvements-to-these roads.

Implementing a regulatory scheme that requires new land development activity generating traffic to pay a "Fair Share Fee" that does not exceed a pro rata share of the reasonably anticipated expansion costs of new roads created by the new land development activity, is the responsibility of the County in order to carry out the traffic circulation element of its Comprehensive Plan, under Section 163.3161 et. seq., Florida Statutes, and is in the best interest of the public's health, safety, and welfare.

D. Increasing-the-capacity-of-roads-in-order-to-make them-safe-and-more-efficient-is-the-recognized-responsibility-of-government-and-is-in-the-best-interest-of-the-public's health,safety-and-welfare.

It is the purpose of this ordinance to establish a regulatory system to assist in providing increased capacity for the major road network system to accommodate the increased demand new land development activity generating traffic will have on the road system. New land development activity will be required to pay a fee which does not exceed a pro rata share of the reasonably anticipated costs of new roads and other facilities that its presence necessitates. This is accomplished by requiring payment of Fair Share Fees upon commencement of any new land development activity generating traffic. This road impact fee is for the exclusive purpose of providing

increased capacity for the major road network system.

E. It is in the interest of the public's health, safety, welfare and convenience for the County to regulate land development, arterial and other roads and other related facilities by requiring payment of Fair Share Fees upon commencement of any new land development activity generating traffic, by requiring the payment of road impact fees as a condition precedent to the issuance of a building permit for new construction for the exclusive purpose of improving the major road network system impacted within a predefined zone in which the development is located.

F. It is the purpose of this ordinance to continue to allow growth in Palm Beach County but to do so in a manner which requires the new development, causing the road impact problems, to share the financial burden of growth by requiring the new development to pay their pro rata share for the cost of road improvements to the extent that their presence necessitates such improvements. -- Thus the existing residents of Palm Beach County will be afforded some relief from the costs of providing road improvements solely necessary to meet the needs of the new development.

Under the adopted Comprehensive Plan new development at urban densities can be permitted only where an adequate road network system exists. The purpose of this ordinance is to continue to enable Palm Beach County to allow new development in compliance with the adopted Comprehensive Plan, and to regulate new development activity generating traffic so as to require it to share in the burdens of growth by paying its pro rata share for the reasonably anticipated expansion costs of road improvements. Thus, new growth will help pay for itself, and the existing residents of Palm Beach County will not have the full financial burden of providing increased road capacity at the outset.

G. It is not the purpose of this ordinance to collect any money from new land development activity generating traffic, in excess of the actual amount necessary to offset the impact on-the-major-road-network-system-caused-by-new-development, demand on the major road network system generated by the new land development activity. It is specifically acknowledged that this ordinance has approached the problem of determining the "Fair Share Fee" in a conservative and reasonable manner. This ordinance will only partially recoup the governmental expenditures associated with growth. The Established residents will still be required to supplement-the-contributions-of-the new-development, bear their appropriate share of the cost of the road network system.

H. The Technical Data, Finding and Conclusions herein are based on the Palm Beach County 1980 Comprehensive Plan and in part on the following studies and reports:

Report on the proposed Palm Beach County Fair Share Contribution for Road Improvements Ordinance - August 10, 1978, revised September 8, 1978 by Palm Beach County Engineering, Planning and Legal Staffs. Economic Aspects of the proposed Palm Beach County Road Impact Fee Ordinance - Jan. 2, 1979 by Joint Center for Environmental and Urban Problems Fla. International University and Florida Atlantic University; West Palm Beach Urban Area Transportation Study Plan Reevaluation. (Year 2000 Study) - May 17, 1979 - by Peet, Marwick & Mitchell Company; Update Study of Vehicular Traffic Generation Characteristics in Palm Beach County - Jan. 1975 - by Kimley-Horn & Associates; Trip Generation & Informational Report - 1976 - by Institute of Transportation Engineers; Trip Ends Generation Research 1979 by State of Fla. D.O.T., Division of Transportation Planning.

SECTION 3. Section III. Rules of Construction 79-7 is amended to read as follows:

SECTION III. Rules of Construction

(8) Where a road right-of-way is used to define zone boundaries, that portion of the road right-of-way demarcating

the boundary may be considered as part of any zone it bounds.

SECTION 4. Section IV. Definitions 79-7 is amended to read as follows:

SECTION IV. Definitions

G. Collecting Agency: That The governmental authority having jurisdiction to authorize the-construction-of-any-building the making of any material change of any structure including the construction, enlargement, alteration, or repair of buildings, or the governmental authority having jurisdiction to authorize rezoning or special exceptions that make material changes in the use or appearance of land without making material changes of any structures on the land.

H. Dwelling Unit: A-single-family-house,-single-family apartment-or-mobile-home-used-for-human-habitation.

Dwelling unit shall have the meaning defined in 1200.2 of the Zoning Code.

L. Land Development Activity Generating Traffic: The carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trip(s) over and above that produced by the existing use of the land.

O. Non-Commencement: The cancellation of construction activity making a material change in a structure, or the cancellation of any other land development activity making a material change in the use or appearance of land.

U. Traffic Generation Statement: A documentation of proposed trip generation rates submitted prior to and as a part of a traffic impact analysis. This documentation would include actual traffic generation information from a representative sampling of existing similar development.

SECTION 5. SECTION V. Fair Share Fee to be Imposed on New Construction; Review. 79-7 is amended to read as follows:

SECTION V. Fair Share Fee to be Imposed on New Construction Land Development Activity Generating Traffic; Review.

A. It has been determined by the Board of County Commissioners that new-development any new land development activity generating traffic in the County should be charged a reasonable "Fair Share Fee" to help offset the costs for road improvements caused solely by new development regulate new land development activity's effect on roads and related facilities.

B. As a condition to the issuance of a building permit applied for after the effective date of this ordinance for any new construction After the effective date of this ordinance, the applicant shall pay a Fair Share Fee in the amount and manner required by this ordinance upon commencement of any new land development activity generating traffic, which The Fair Share Fee shall be used exclusively within the zone in which the development is located for the exclusive purposes set forth in this ordinance.

C. The Fair Share Fee shall be determined by using the following methods:

1. Independent Calculation: Any person may determine his Fair Share Fee by providing traffic and economic documentation that his economic impact on the major road network system is less than the Fair Share Fee as determined under subparagraphs C 2, 3, and 4 below. The documentation submitted shall show the basis upon which the Fair Share Fee has been calculated, including but not limited to the following factors: generation rates, geographic areas of impact, cost of replacing the capacity of roadways used by the development's traffic and allowable credits which may be paid by future occupants. This documentation shall be prepared and presented by qualified professionals in the respective field. The mathematical assumptions, formulas and generation rates used in this ordinance shall not be used as a basis without independent documentation.

a. Documentation of trip generation rates as appropriate for the proposed land development activity.

b. Basis for trip distribution and traffic assignment.

c. Estimates of the cost to replace the portion of the design capacity used by the traffic generated by the proposed land development activity on each of the affected roads (this cost shall include consideration of a reasonable inflation rate, right-of-way costs, plans preparation costs and other cost which may reasonably be expected for the necessary road improvements).

d. Tax revenues derived from the proposed land development activity which can reasonably be projected to be available for these capacity replacement costs.

e. The amount of any shortfall of these projected revenues when compared to the required capacity replacement costs.

This documentation shall be prepared and presented by qualified professionals in the respective fields and must be based on studies, surveys, and reports using standard practices and accepted methodological procedures. The mathematical assumption formulas and generation rates used in this ordinance shall not be used as a basis without independent documentation.

3. Fee Schedule.

b. Non-Residential:

Shopping Centers:

| | | |
|----------------------------|----------------------|------------------------|
| 150,000 or less sq. ft. | 100 per 1000 sq. ft. | 1,250 per 1000 sq. ft. |
| 150,000 to 499,999 sq. ft. | 60 per 1000 sq. ft. | 750 per 1000 sq. ft. |
| 500,000 to 999,999 sq. ft. | 35 per 1000 sq. ft. | 427 per 1000 sq. ft. |
| 1,000,000 sq. ft. and over | 30 per 1000 sq. ft. | 375 per 1000 sq. ft. |
| General Industrial | 6 per 1000 sq. ft. | 75 per 1000 sq. ft. |

| Square Footage | Fee | Official Daily Trip Generation Rate |
|----------------|----------|-------------------------------------|
| 20,000 sq. ft. | \$25,000 | (\$1.25/sq. ft.) |
| 40,000 sq. ft. | \$50,000 | (\$1.25/sq. ft.) |
| 60,000 sq. ft. | \$75,000 | (\$1.25/sq. ft.) |

| | | |
|-------------------|-----------|------------------|
| 80,000 sq. ft. | \$100,000 | (\$1.25/sq. ft.) |
| 100,000 sq. ft. | \$106,475 | (\$1.06/sq. ft.) |
| 150,000 sq. ft. | \$122,650 | (\$0.82/sq. ft.) |
| 200,000 sq. ft. | \$138,829 | (\$0.69/sq. ft.) |
| 250,000 sq. ft. | \$155,008 | (\$0.62/sq. ft.) |
| 300,000 sq. ft. | \$171,186 | (\$0.57/sq. ft.) |
| 350,000 sq. ft. | \$187,365 | (\$0.54/sq. ft.) |
| 400,000 sq. ft. | \$203,544 | (\$0.51/sq. ft.) |
| 450,000 sq. ft. | \$219,723 | (\$0.47/sq. ft.) |
| 500,000 sq. ft. | \$235,902 | (\$0.47/sq. ft.) |
| 600,000 sq. ft. | \$268,259 | (\$0.45/sq. ft.) |
| 700,000 sq. ft. | \$300,616 | (\$0.43/sq. ft.) |
| 800,000 sq. ft. | \$332,974 | (\$0.42/sq. ft.) |
| 900,000 sq. ft. | \$365,332 | (\$0.41/sq. ft.) |
| 1,000,000 sq. ft. | \$397,689 | (\$0.40/sq. ft.) |
| 1,250,000 sq. ft. | \$478,583 | (\$0.38/sq. ft.) |
| 1,500,000 sq. ft. | \$559,476 | (\$0.37/sq. ft.) |

4. Other Land Development Activity. For new land development activity not electing to proceed under subparagraph C. 1 above, and where the County Engineer has determined that the development is not covered by subparagraph C.2 and 3. above, the appropriate traffic generation rate and thus the fee to be paid in accordance with this ordinance shall be determined by the County Engineer. The County Engineer shall rely on the best available traffic generation data and traffic literature, and shall compute the fee in accordance with C.2.b. The applicant may challenge the County Engineer's determination provided he submits to the County Engineer's Office a traffic generation statement prepared by a qualified Professional Engineer who is licensed to practice in the State of Florida. If the County Engineer's Office rejects this proposed generation rate, then the applicant may petition the Board of County Commissioners to determine the appropriate Fair Share Fee within sixty (60) days of the rejection of the proposed generation rate by the County Engineer.

D. Review. The amount of the Fair Share Fee shall first be reviewed by the Board of County Commissioners in January 1981; and thereafter the amount of the Fair Share Fee shall be reviewed annually during the month of January by the Board of County Commissioners. The review shall consider trip generation rates and actual construction costs for work contracted for by the County and the Florida Department of Transportation with Palm Beach County. The purpose of this review is to analyze the effects of inflation on the actual costs of roadway construction and to insure that the fees charged the new comer new land development activity generating traffic will not exceed their pro rata share for the reasonably anticipated expansion costs of road improvements necessitated solely by their presence.

SECTION 6. Section VI. Time of Payment 79-7 is amended to read as follows:

SECTION VI. Time of Payment.

A. The Fair Share Fee for new construction shall be due and payable at the time of issuance of a building permit. The Fair Share Fee shall be due on commencement of any new land development activity generating traffic. All funds collected shall be properly identified by zone and promptly transferred to the Palm Beach County Comptroller's Office for deposit in the appropriate trust fund to be held in separate accounts as determined in Section VIII of this ordinance and used solely for the purpose as established by this ordinance.

SECTION 7. Section VIII. Trust Funds Established 79-7 is amended to read as follows:

SECTION VIII. Trust Funds Established.

B. Funds may be withdrawn from these accounts for use must be used solely in accordance with the provisions of Section VII of this ordinance and in compliance with the 1980 Palm Beach County Comprehensive Plan, provided that The disbursement of such funds shall require the approval of the Board of County Commissioners, after recommendation of the County Engineer.

D. The fees collected pursuant to this ordinance may be returned to the then present owner of the land development activity generating traffic if the fees have not been spent (encumbered) within a reasonable time, but not later than by the end of the calendar quarter immediately following six (6) years from the date the fees were paid. Refunds shall be made in accordance with the following procedure:

1. The present owner must petition the Board of County Commissioners for the refund within one (1) year following the end of the sixth (6th) year from the date on which the fee was paid.

2. The petition must be submitted to the County Engineer and must contain:

- a. a notarized sworn statement that the petitioner is the current owner of the property;
- b. a copy of the dated receipt issued for payment of the fee;
- c. a certified copy of the latest recorded deed; and,
- d. a copy of the most recent ad valorem tax bill.

3. Within three (3) months from the date of receipt of a petition for refund the County Engineer will advise the petitioner and the Board of County Commissioners of the status of the fee requested for refund. For the purposes of this section, fees collected shall be deemed to be spent (encumbered) on the basis of the first fee in shell be the first fee out. In other words, the first money placed in a trust fund account shall be the first money taken out of that account when withdrawals have been made in accordance with subparagraph B. above.

4. When the money requested is still in the trust fund account and has not been spent (encumbered) by the end of the calendar quarter immediately following six (6) years from the date the fees were paid, the money shall be returned with interest at the rate of six percent (6%) per annum.

E. The fees collected pursuant to this ordinance may be returned to the present owner if the building-permit the land development activity generating traffic is cancelled due to non-commencement of construction before the funds have been committed or spent pursuant to Section VII. Refunds may be made in accordance with Section VIII, D, 2, and VIII, D, 3, provided the then present owner petitions the Board of County Commissioners for the refund within three (3) months from the cancellation date of the building-permit noncommencement.

SECTION 8. Section XI. Liberal Construction, Severability and Penalty Provisions 79-7 is amended to read as follows:

SECTION XI. Liberal Construction, Severability and Penalty Provisions.

C. Any building-permit-used-for-new-construction-as-covered-by-this-ordinance-but-without-payment-of-the-fee-as-required-by-this-ordinance-shall-be-void.

SECTION 9. Severability

A. The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

B. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 10. Inclusions in the Code.

The provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such; and the word "ordinance" may be changed to "section".

SECTION 11. Effective Date

The provisions of this Ordinance shall become effective upon receipt from the Florida Department of State of official acknowledgement that this Ordinance has been filed with the said Department of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida this 7th day of April, 1981.

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: [Signature]
Chairman

Acknowledged by the Department of State, State of Florida, on the 17th day of April, 1981.

Acknowledgement from the Department of State received on 20th day of April, 1981, at 3:16 P.M.

Effective Date: April 20, 1981 3:16 P.M.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

[Signature]
COUNTY ATTORNEY

COUNTY OF PALM BEACH, STATE OF FLORIDA
CLERK OF CIRCUIT COURT

I, John B. Dunkle, Clerk of the Fifteenth Judicial Circuit Court of the State of Florida and Clerk of the Board of County Commissioners, do hereby certify that the above and foregoing is a true and correct copy of

An Ordinance cited as an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, Amending Ordinance No. 79-7 known as the "Fair Share Contribution for Road Improvements Ordinance"...., approved and adopted by the Board of County Commissioners in regular session on April 7, 1981, as shown by the records of this office.

Given under my hand and the Seal of the
Board of County Commissioners of Palm
Beach County, Florida, at the County
Courthouse, West Palm Beach, Florida,
this the 21st day of April, A.D., 1981.

JOHN B. DUNKLE, Clerk of
Circuit Court and Clerk of the
Board of County Commissioners

By: [Signature]
Deputy Clerk

